BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185

PETITION FOR PARTIAL RECONSIDERATION AND/OR CLARIFICATION OF SECOND REPORT AND ORDER AND MEMORANDUM OPINION AND ORDER

AIRTOUCH PAGING
POWERPAGE

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SUMMARY

AirTouch Paging ("AirTouch") and PowerPage (collectively referred to as the "Companies") commend the Commission on its Second Report and Order and Memorandum Opinion and Order (the "Second Report"). The Second Report is another step in the direction of introducing viable competition to the local marketplace, and responds to the discriminatory treatment heretofore encountered by telecommunications carriers with respect to the procuring of facilities and services over which the Local Exchange Carriers ("LECs") traditionally have exercised control.

In light of the myriad issues on which the Companies believe the Commission reached the correct decisions, the Companies' petition is narrowly focused, and raises only three issues. First, the Companies request clarification that the network disclosure obligations of Section 251(c)(5) benefit all telecommunications carriers interconnecting with the incumbent LEC's network, not just competing telephone exchange or exchange access providers. The statute clearly supports this interpretation, and the public interest would not be served by narrowing the scope of the beneficiaries. Second, the Companies request that the Commission find that Commercial Mobile Radio Service ("CMRS") paging service is telephone exchange service. This finding is consistent with prior Commission and court rulings, comports with the language of the statute, and will protect against

discrimination. Finally, the Companies seek reconsideration of two aspects of the Commission's decision relating to the Texas Public Utilities Commission's ("PUC's") proposed area code relief plan. The Companies request that the Commission prohibit the Texas PUC from implementing a wireless-only telephone number take-back. Such a take-back would violate the principles announced in the Ameritech Decision and the Second Report by requiring wireless carriers to bear a disproportionate amount of the burden associated with implementing a geographic split and is not technology blind. The Companies also request, in the event that the Commission allows Type 2 numbers to be changed in the course of a geographic split, that wireless companies be permitted to determine which numbers will change. This flexibility is warranted because Type 2 numbers are served by a tandem which may serve both the old NPA and the new NPA, so they are not associated with any particular NPA.

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AirTouch Paging ("AirTouch") and PowerPage (collectively referred to herein as the "Companies")[1/], by their attorneys and pursuant to Section 1.429 of the Commission's Rules,[2/] hereby request reconsideration in part and clarification in part of certain aspects of the Commission's Second Report and Order and Memorandum Opinion and Order[3/] (the "Second Report") adopted in the captioned proceeding. The following is respectfully shown:

[1/] AirTouch provides local, state, regional and nationwide service on both Part 22 and Part 90 frequencies. AirTouch is also a licensee of a nationwide narrowband PCS license and three regional licenses. PowerPage provides paging service in regional service areas including the Pacific Northwest and Southeast.

[2/] 47 C.F.R. §1.429.

[3/] FCC 96-333, released August 8, 1996.

I. Introduction

1. The Second Report, in conjunction with the First Report and Order[4/] adopted in this proceeding, represents a significant step toward achieving the goal of increasing competition in the local marketplace. The Commission's decisions in the Second Report regarding dialing parity, non-discriminatory access, network disclosure obligations and numbering administration provide the guidance necessary to ensure that other telecommunications carriers have a better opportunity to compete with Incumbent Local Exchange Carriers ("ILECs") in the marketplace, and will help to end the discrimination these carriers have suffered in connection with the provision of telecommunications services due to the ILECs' control over the facilities, functions and services necessary for the provision of competing services, including numbering administration.

2. Given the many issues on which the Companies believe the Commission reached the correct decisions, the Companies' petition for partial reconsideration and/or clarification of the Second Report is narrowly focused, raising only three issues. First, the Companies request that the Commission find that the network disclosure obligations imposed upon incumbent LECs ("ILECs") under

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[4/] FCC 96-325, released February 8, 1996.

Section 251(c)(5) of the Communications Act of 1934 (the "1934 Act"), as amended by the Telecommunications Act of 1996 ("1996 Act") run to the benefit of all telecommunications carriers interconnecting with the ILEC's network for the transmission and routing of services regardless of whether or not the telecommunications carrier provides telephone exchange service. This clarification would be consistent with the language of the 1996 Act and with the public interest.

3. Second, the Companies respectfully request that the Commission explicitly find that Commercial Mobile Radio Service ("CMRS") paging is a "telephone exchange service." Such a finding would be consistent with the public interest and past Commission and court rulings, and comports with the definitions of "telephone exchange service" contained within the 1934 Act and the 1996 Act.[5/]

4. Third, with respect to the Texas Public Utilities Commission ("PUC") area code relief plan discussed

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[5/] AirTouch raised this argument in a Petition for Partial Reconsideration and/or Clarification of the First Report and restates the argument here. See Joint Petition for Partial Reconsideration and/or Clarification filed by AirTouch Paging, Cal-Autofone and Radio Electronic Products Corporation on September 30, 1996 with reference to the First Report ("Joint Petition"). The First Report implied that CMRS paging companies do not provide telephone exchange service. First Report ¶¶ 1005, 1013. The argument is reiterated again in this pleading because of the explicit, but unsupported, finding in the Second Report that paging is not telephone exchange service. Second Report ¶ 333, n. 700.

in the Second Report, the Companies (a) seek reconsideration of the Commission's decision not to prohibit the PUC from taking back numbers assigned to CMRS carriers in the course of introducing a geographic split area code relief plan, and (b) to find that CMRS carriers, including CMRS paging companies, may chose the mechanism used which to determine which of their Type 2 numbers must change in connection with a geographic split.

II. The Network Disclosure Obligations of Section 251(c)(5) Should Benefit All Telecommunications Carriers Interconnecting with the ILEC's Network

5. Section 251(c)(5) imposes a "duty" upon

> [e]ach incumbent local exchange carrier ... to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.[6/]

The statutory language does not require that the transmitted or routed services be telephone exchange or telephone toll service.[7/] Accordingly, this ILEC duty should run to the

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[6/] 47 U.S.C. § 251(c)(5).

[7/] Indeed, as AirTouch pointed out in the Joint Petition, the Commission has misconstrued all of Section 251(c) by requiring a telecommunications carrier to provide telephone exchange services to receive the benefits of Section 251. See Joint Petition at n. 11.

benefit of any telecommunications carrier who uses the ILEC's network, including all CMRS carriers. Nonetheless, the Commission implies in the Second Report that the obligation runs only to "competing providers,"[8/] which the Commission defines as providers of telephone exchange or telephone toll service.[9/] The Commission does not offer any reasonable explanation for limiting the scope of the Section 251(c)(5) obligation in this fashion.

6. The Companies respectfully request that the Commission determine that LECs must disclose network changes to any interconnected carrier using the ILEC's network for the transmission and routing of services if the changes would affect the interconnecting carrier's performance or ability to provide service. This would serve the public interest. Any carrier (as well as its subscribers) interconnecting with the ILEC's network and using the network for transmission and routing of services would be harmed by a change in the ILEC's network which affects the carrier's ability to provide the same level of service to its subscribers.[10/]

[8/] Second Report ¶ 171 ("Section 251(c)(5) requires that information about network changes must be disclosed if it affects competing service providers' performance or ability to provide service.")

[9/] Second Report n. 244.

[10/] Indeed, the Commission recognized the importance of this requirement to companies that are not even (continued...)

7. The need for advance notice to all telecommunications carriers of network changes will become increasingly important over time. For example, the unbundling of ILEC facilities recently required by the First Report will lead to new services. Some of these new services flow from the unbundling of network services, including the CLASS services, previously unavailable to CMRS paging carriers.[11/] Timely access to information on changes in the ILECs network will enable CMRS paging carriers to assess and incorporate certain features and functions in CMRS paging services. The public interest benefits associated with requiring disclosure of network

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[10/] (...continued)
telecommunications carriers. For instance, the Commission found in its recent Report and Order in the payphone compensation proceeding that payphone providers, even though not telecommunications carriers, nonetheless should be given this information. Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, FCC 96-388 (Released September 20, 1996) ("Payphone Order") at ¶ 206. To the extent this was driven by the provision of enhanced services, CMRS paging providers also provide enhanced services, such as voice mail.

[11/] It is the Companies' understanding that there are over 100 CLASS features available in the central office -- such as call forward, no answer; call forward, busy. Many of these features may allow CMRS paging carriers to design and implement new services to their customers.

changes far exceed any costs of requiring such notification.[12/]

III. The Commission Must Conclude That CMRS Paging Companies Provide Telephone Exchange Service

8. In the Second Report, the Commission concluded that the obligation to provide dialing parity and the duty to provide non-discriminatory access to telephone numbers, operator services, directory assistance, and directory listings pursuant to Section 251(b)(3) runs to providers of telephone exchange service and telephone toll service.[13/] The Commission concluded further that CMRS paging is not telephone exchange service.[14/]

12/ If the Commission decides not to grant CMRS paging carriers this relief pursuant to Section 251(c)(5), the Commission should nonetheless determine that, since CMRS paging carriers provide enhanced services, they should be given the notice pursuant to Computer III and ONA. See, e.g., Amendment of Section 64.702 of the Commission's Rules and Regulations, CC Docket No. 85-229; Filing and Review of Open Network Architecture Plans, 4 FCC Rcd 1, at 205-6, recon., 5 FCC Rcd 3103, 3084 (1990); 5 FCC Rcd at 3117.

13/ Second Report ¶¶ 29, 101.

14/ Second Report ¶ 333, n. 700. The Commission's discussion of the basis for this conclusion was limited to a statement that paging service does not fit within the definition of telephone exchange service provided in the Communications Act. A slightly more detailed discussion of this subject is found in the First Report, in which the Commission sets forth reasons for determining why other CMRS (continued...)

9. In the First Report, the Commission found that "at a minimum" cellular, broadband PCS, and covered SMR providers provide telephone exchange service.[15/] The use of the clause "at a minimum" indicates that the Commission has left the door open for inclusion of other carriers in the telephone exchange service provider category.[16/] The Companies respectfully submit that the Commission must conclude that CMRS paging carriers also fall within this category.[17/] Such a finding is consistent with the public interest and prior Commission and court rulings, and comports with the definition of "telephone exchange service" contained within the 1934 Act and the 1996 Act.

[14/] (...continued)
services constitute telephone exchange services and, by implication, why paging services do not. In response, AirTouch requested partial reconsideration of the First Report and requested that the Commission find that CMRS paging is telephone exchange service. The Companies are therefore reiterating the argument that CMRS paging is telephone exchange service.

[15/] First Report ¶ 1013.

[16/] However, in the Second Report specifically found that paging providers were not providing telephone exchange service, though it did so without any discussion of the public interest rationale or statutory interpretation supporting that conclusion. Second Report ¶ 333, n. 700.

[17/] However, for the same reasons that the Commission concluded that other CMRS carriers are not LECs, paging carriers should not be considered LECs. First Report ¶¶ 1004 to 1006.

10. An explicit finding that CMRS paging is telephone exchange service is in the public interest. The Commission's conclusion that CMRS paging is not telephone exchange service places CMRS paging carriers at a competitive disadvantage vis-a-vis other CMRS providers who provide CMRS paging service in conjunction with, or ancillary to, their primary service offerings and who enjoy telephone exchange service provider status.[18/] For example, if CMRS paging companies are discriminated against with respect to the acquisition of telephone numbers, whether it be the timeliness with which they can obtain those numbers, or the numbers assigned, they will be unable to offer potential customers numbers on a timely basis or to assign customers numbers associated with their local calling area.

11. Further, a finding that CMRS paging is telephone exchange service is consistent with past

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18/ As noted by AirTouch, in the petition respecting the First Report, other telecommunications carriers who compete with CMRS one-way paging-only service providers can get competitive benefits from their telephone exchange service classification. See Joint Petition at ¶ 20. For example, broadband PCS providers such as Sprint Spectrum are offering a PCS phone and paging service all-in-one package. Cellular providers also offer paging services ancillary to their cellular service. And, some providers of traditional IMTS service intermix two-way and one-way service on a common radio common carrier channel. These carriers are direct competitors with the Companies for paging customers.

Commission and court rulings. The Commission repeatedly has found that CMRS paging companies provide telephone exchange service. In 1965, the Commission released a Public Notice announcing its policy regarding the filing of tariffs by radio common carriers.[19/] The Public Notice found radio common carrier ("RCC") paging and mobile telephone service "to be exchange service within the meaning of Section 221(b)" because it was a "local service furnished through interconnection with a landline telephone company."[20/] In 1975, the Commission reiterated its policy regarding the filing of tariffs by mobile telephone and paging service providers and in the process confirmed the classification of mobile radio and paging services as "exchange services."[21/]

12. Similarly, when the Commission found that telephone companies have an obligation to provide needed interconnection to radio common carriers, such as paging carriers, for the services they provide, the decision was based in part on the radio common carriers' status as exchange co-carriers.[22/] And in an early order preempting

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19/ Public Notice, 1 FCC 2d 830 (1965). This finding was based on the more strict definition of telephone exchange service existing before the 1996 Act.

20/ Id.

21/ Tariffs for Mobile Service, 53 FCC 2d 579 (Com. Car. Bur. 1975). In both cases, the Commission was acting to assist the paging industry.

22/ Cellular Interconnection, 63 RR 2d 7, 17 (1987).

state entry regulation for radio common carrier services, the Commission also reconfirmed "the status of RCC services as 'exchange communications.'"[23/] Though this early preemption decision was vacated and remanded on other grounds, in the process the Commission reiterated its finding that "generally radio common carriers are not end users or interexchange carriers ... but exchange co-carriers."[24/]

13. Court rulings also confirm the status of CMRS paging service as exchange service under the 1934 Communications Act definition. In United States v. Western Electric Co., 578 F. Supp. 643, 645 (D.D.C. 1983), the District Court, in interpreting the Modification of Final Judgment (the "Decree") ruled that one-way paging services are "exchange telecommunications services"[25/] within the meaning of the Decree.[26/] In sum, the Commission and the Courts have consistently found that CMRS paging is a

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23/ Preemption of State Entry Regulation, 59 RR 2d 1518, 1528, n. 37 (1986).

24/ 63 RR 2d 1700, ¶ 2.

25/ In fact, this determination was critical to the divestiture process. Because the RBOCs were permitted under the Decree only to provide exchange services, the fact that the court found mobile telephone and paging to be exchange services explains why these facilities came to be held by the RBOCs rather than being retained by AT&T.

26/ The classification of paging services as exchange services was left undisturbed even though other portions of the decision were reversed.

telephone exchange service, and the Commission should continue to do so.

14. The 1996 Act did not promulgate a narrower definition of telephone exchange service than the 1934 Act. Rather, the definition of telephone exchange service was broadened. The 1996 Act continues to include within the definition the 1934 Act language that telephone exchange service is "service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge."[27/] However, in the 1996 Act this traditional definition was expanded to include: "comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service."[28/]

15. Thus, the definition of telephone exchange service was broadened to include services and functions that are "comparable" to those provided by telephone exchange service providers[29/], and the new language clearly sweeps

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27/ 47 U.S.C. § 153(r).

28/ 47 U.S.C. § 153(47).

29/ Compare 1934 Act definition with 1996 Act definition, as cited in paragraph 14.

within its ambit new technologies and network configurations.[30] As is shown in greater detail in Exhibits 1 through 7, CMRS paging carriers enable subscribers of other telecommunications service providers to communicate with subscribers in the paging carriers' "local area" (defined by the Commission as MTAs).[31] CMRS paging carriers provide this service by employing a system of switches, RF transport mechanisms and base stations which accomplish the task of receiving an incoming page and performing the translation, switching and routing functions necessary to deliver the page to the called party.

16. The Commission need not be concerned that one-way CMRS paging service does not constitute an "intercommunicating" service.[32] One-way CMRS paging services provide for a reciprocal communication -- the called party is paged, with a numeric, alpha, or voice message, and the calling party receives a communication, either a beep or voice, that the page has been sent.[33]

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[30] The new language extends to any "system of switches, transmission equipment or other facilities (or combinations thereof)", not just to traditional "telephone exchanges".

[31] First Report ¶ 1036.

[32] The concept of intercommunicating in the definition is not new. That part of the definition predates the 1996 Act.

[33] When other services are provided, such as voice mail, the calling party also receives a greeting (continued...)

There is no reason for the Commission to conclude that real-time interactive two-way voice communication is required to meet the statutory definition. For example, WEBSTER's New World Dictionary defines "intercommunicate" as "to communicate with or to each other or one another."[34/] Under this definition, the term "intercommunicating" is sufficiently broad to encompass purely one-way communication, when in fact paging has an element of reciprocal communication as previously discussed.[35/]

17. Based upon the foregoing, the Companies respectfully request that the Commission add CMRS paging carriers to the list of carriers who "at a minimum" should be classified as providers of telephone exchange service.[36/]

[33/] (...continued)
from the called party. This voice mail service is virtually identical to those provided by other telephone exchange service providers.

[34/] WEBSTER's New World Dictionary, College Edition (emphasis added).

[35/] Further, in almost all instances, the page generates either a call back (in the case of numeric paging) or some other communication action on the part of the called party.

[36/] It is interesting to note that the Commission in the Payphone Order found that, although payphone providers are not telecommunications carriers, they are nonetheless entitled to dialing parity. Payphone Order ¶ 291. The Commission found that

> dialing parity was an important element in fostering vigorous local

(continued...)

VI. The Texas PUC Area Code Relief Plan

18. The Commission found that the Texas PUC's proposed wireless only area code is unlawful because it proposed (a) exclusion, (b) segregation and (c) take-back, each of which the Commission found in its Ameritech Decision to render an overlay plan discriminatory and unlawful pursuant to Sections 201 and 202 of the Communications Act of 1934.[37] In response to the Commission's finding that the wireless only overlay plan was unlawful, the Texas PUC proposed a fall-back plan: a take-back of wireless numbers in connection with the implementation of a geographic split; then a changing of both wireless and wireline telephone numbers as the result of the split. Although the Commission

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[36] (...continued)

> exchange and long distance competition "by ensuring that each customer has the flexibility to choose among different carriers without the burden of dialing access codes." We believe that this statement is equally applicable to fostering vigorous competition in the payphone industry ... . Id. at ¶ 291.

The Companies urge that, if the Commission concludes that CMRS paging companies are not telephone exchange companies, then they nonetheless should be protected against dialing disparities. Since CMRS paging companies compete with the ILECs for paging customers, the public interest reasons for making dialing parity applicable to payphone providers, even though they are not covered under Section 251, require that dialing parity applies to CMRS paging.

[37] Second Report ¶ 304.

agreed that the Texas PUC's wireless only plan violated the Commission's Ameritech Decision on its face,[38] the Commission nonetheless decided not to prevent the Texas PUC from taking back wireless numbers in connection with the split implementation.[39] In support of its decision, the Commission stated that "In a geographic split, roughly half of the customers in the existing NPA, including wireless customers, will have to change their telephone numbers."[40] The Companies respectfully request that the Commission reconsider its decision not to prohibit the Texas PUC from taking back wireless telephone numbers, and that the Commission find that wireless carriers may select the mechanism by which to determine which telephone numbers will change as the result of the split.

A. The Commission Should Reconsider its Decision Not to Prohibit the Texas PUC from Implementing the Wireless-Only Take-Back

19. The proposed take-back of wireless telephone numbers is not supported by the public interest because: (a) it requires wireless carriers to bear a disproportionate amount of the burden associated with implementing a geographic split, and (b) it is not technology blind. The

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[38] Second Report ¶ 304.

[39] Second Report ¶ 308.

[40] Id. ["Our goal is to have a technology-blind area code relief that does not burden or favor a particular technology."]

Companies agree that both wireless and wireline telephone numbers will change as the result of a geographic split.[41/] Under the proposed plan, however, wireless carriers are required first to give back telephone numbers[42/] and then to require existing customers to change their telephone numbers to numbers in the new NPA.[43/] In comparison, the

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41/ The Commission should clearly understand what is occurring in a geographic split. For those numbers which are Type 1 numbers (e.g., served in the public telephone switched network (PSTN) by a central office), the telephone number will change if the central office serving such number is changed. For those numbers which are Type 2 numbers (e.g., served in the PSTN from a tandem), the telephone number will not change unless the NPA for the tandem is changed. CMRS paging carriers use a combination of Type 1 and Type 2 numbers. If what the Commission was saying was that CMRS carriers will bear their share of the split by the change of the Type 1 numbers, the public interest would be served. However, to the extent that the Commission means that the appropriate Type 1 numbers change and 1/2 of the Type 2 numbers change, this would again be a disproportionate burden on CMRS carriers.

42/ The Commission is unclear whether the take back would be either random, or driven by customer home or office location. To the extent that the take back is on a random basis, the effects are even worse.

43/ Based upon the statements offered to support the Commission's decision, it appears that the Commission and the Texas PUC have not distinguished between a take-back of numbers (prior to a split) and a change in telephone number which results from the implementation of a geographic split. As discussed above, requiring wireless carriers to undergo both a take-back of telephone numbers and subsequent change of additional telephone numbers once the split is implemented places a disproportionate amount of the burden on wireless carriers.

first time wireline carriers are faced with the burden of the geographic split is when the split is accomplished.[44/] There is no reason supporting this inequitable distribution of the burdens of area code relief.[45/] In fact, the Commission stressed in the Second Report its intent that the burdens associated with relief be shared equitably.[46/]

20. The proposed take-back of wireless telephone numbers is facially discriminatory and unlawful. As

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44/ The Commission should recognize that wireless customers will bear unique burdens under a split. Where wireline customers located next door will generally be given the same NPA (e.g., they will not be forced remember that their next door neighbor is in a different NPA), wireless customers living next door may very well be given different NPAs. No matter how it is cut, wireless customers will not bear an equal burden.

45/ The decision to implement a geographic split and the selection of the boundaries to be used is the subject generally of exhaustive research into patterns of growth as well as the determination of communities of interest. In addition to the research undertaken by the state public utilities commission, the state generally holds public hearings to determine the public's reaction to the proposed boundaries. The primary goal of the geographic split is to maintain the communities of interest in the same NPA. A CMRS customer's community of interest is either: (a) the entire MTA (based upon the Commission's finding that a "local" area for CMRS is an MTA -- See First Report ¶ 1036) or (b) the customer's home or office location. By requiring a 50% relocation of some customers from the NPA, the customers are being separated from their community of interest (other CMRS customers) or being potentially assigned to an NPA outside their home or office. Either of those results makes CMRS customers bear a disproportionate burden.

46/ Second Report ¶ 308.

described, the Texas PUC plan proposes a take-back of only wireless telephone numbers. For the same reasons wireless-only take-backs are not permitted in connection with overlay plans,[47] the wireless-only take-back plan proposed by the Texas PUC also should be found unlawful pursuant to Sections 201 and 202 of the Communications Act.[48]

21. The Companies also believe that the proposed take back of wireless numbers violates the Commission's goal to have "technology-blind area code relief that does not burden or favor a particular technology."[49] The Companies

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47/ The Companies generally support NPA overlay proposals which do not discriminate between wireline and wireless services because they avoid the very problems the Commission is wrestling with here.

48/ Second Report n. 632 ("In the Ameritech Decision, the Commission held that three elements of a proposed wireless-only overlay each violated the prohibition in Section 202(a) of the Communications Act of 1934 against unjust or unreasonable discrimination, and also represented unjust and unreasonable practices under Section 201(b). Those objectionable elements were: ... (2) Ameritech's proposal to require only paging and cellular carriers to take back from their subscribers and return to Ameritech all 708 telephone numbers previously assigned to them, while wireline carriers would not be required to do so (the "take back" proposal)..." (emphasis added)] and n. 663 ["...In discussing whether Ameritech's plan constituted an unjust or unreasonable practice and therefore violated § 201(b) of the Act, we stated that three facets of Ameritech's plan -- its exclusion, segregation and take-back proposals -- would each impose significant competitive disadvantages on the wireless carriers, while giving certain advantages to wireline carriers.")

49/ Second Report ¶ 308.

agree that the changing of Type 1 numbers along with their respective central office would satisfy the Commission's goal, but the forced change of Type 2 numbers would not because CMRS carriers are generally the only telecommunications carriers taking Type 2 numbers. Thus, requiring CMRS carriers with Type 2 numbers to change the NPA of one-half of their customers subjects them to burdens not imposed on all other telecommunications carriers. The only mechanism which would truly meet the Commission's goal would be to let CMRS carriers with Type 2 numbers remain in the existing NPA, and require Type 1 numbers to change with the underlying central office.[50/]

B. Wireless Carriers Should Determine the Mechanism by Which to Determine Which Telephone Numbers Will Change

22. The Commission concludes that in any split, approximately one half of the wireline and wireless numbers in the NPA will change.[51/] The Companies agree that the burdens of implementing a geographic split should be borne equally by all telecommunications carriers. To the extent that the Commission disagrees with the Companies that no action should be undertaken for Type 2 numbers, however, in light of the unique characteristics of Type 2 wireless

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50/ The Companies believe that because of the mix of the use of Type 1 and 2 numbers, this proposal may lead to an approximately 50-50 distribution of burdens.

51/ Second Report ¶ 308.

telephone numbers, the Companies request that the Commission explicitly permit wireless carriers to determine which Type 2 telephone numbers will change as the result of a split.[52/]

23. With respect to wireline telephone numbers and Type 1 wireless numbers, where the telephone numbers are served by a central office, determining which telephone numbers will change is a relatively ministerial task: the numbers served by central offices subject to the new NPA will change. With respect to Type 2 wireless numbers, however, the task is more complex. Type 2 telephone numbers are served by a tandem which may serve both the old NPA and the new NPA so they are not associated with any particular NPA. Thus, a "geographic" split with respect to these customers is a misnomer.

24. In light of the foregoing, the Companies request that the Commission expressly permit wireless carriers to determine which of their Type 2 telephone numbers will change as the result of a split. Wireless carriers should be permitted to survey their customers or reach independent determinations with respect to the

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52/ In the Second Report, the Commission found that the actual implementation details of an equitable distribution should be left to the states. Second Report ¶ 308. The Companies disagree. As the Commission has found, the state commission's have shown a predilection to discriminate against CMRS customers in favor of wireline customers. First Report ¶ 1026.